

FILED  
JAMES BONINI  
CLERKUNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

2004 MAY 12 PM 3:40

Edward Smith, : Case No. 1:01cv814  
 Petitioner, : Judge Diott; M.J. Perera  
 v. :  
 Anthony Brigano, : OBJECTIONS TO MAGISTRATE JUDGES'  
 Respondent. : REPORT AND RECOMMENDATION PURSUANT  
 : TO FRCP 72(b).

Now comes Edward Smith, petitioner, pro se, and hereby files the following objections to the Magistrate Judges' Report and Recommendation, hereinafter, "R&R", as follows:

OBJECTIONS TO R & R ON GROUND ONE:

The Petitioner asserts that he was forced to proceed to Trial with defense counsel whom wanted to be removed/substituted from this case and the Petitioner and Defense counsel made this fact known to the Trial Court but said Court refused their requests to the prejudice of the Petitioner and the Sixth and Fourteenth Amendments to the United States Constitution. The Petitioner argues that the legal significance of the Constitutional right to "counsel" should not be given the same legal equivalence as a request for a "continuance" of trial under the Ohio Revised Code; the former being a Constitutional right under Article I, Section 10 of the Ohio Constitution and the Sixth Amendment of the United States Constitution, and the latter being statutory law, Ohio Revised Code Section 2937.21.

The Petitioner presented sufficient cause for substitution of counsel, being that counsel had "misled" him into believing that a federal court action claiming "double jeopardy violations" would prevent this "second-trial" from occurring and that he(counsel) would pursue this federal action to prevent the second-trial; and

OBJECTIONS-continued:

OBJECTIONS TO R & R ON GROUND ONE:

as stated by the Magistrate Judge on Page 11 of the R & R:

[C]ounsel indicated that both financial constraints and concerns about the legal viability of this tack caused him to decline to further litigate the double jeopardy issue before trial.(Id.Tr.48). He expressed concern about his effectiveness in representing petitioner for this reason.(Id.,Tr.49). Defense counsel then asked to withdraw.(Id.,Tr.50)

The Petitioner asserts that as shown above, the trial court was well-informed that there was a "break-down in the attorney-client relationship" which would warrant both the granting of substitution of counsel and a continuance of the trial. This attitude by the Trial Court was an "abuse of discretion" and is evidenced when the Trial Court made the following statements: Page 11 of the R & R: [T]he trial judge stated that regardless who was representing petitioner, she would not stay the criminal proceedings so that petitioner could pursue either state or federal court review of her ruling on the double jeopardy issue.(Id.,Tr.50)..SEE: Attachment "A",Ohio First District Court of Appeals' Opinion,PAGE 9: "...and the court's statement that it would not "hear from him again"; meant exactly what is stated: to shut-up and that she would only allow his Defense counsel to speak. The Petitioner argues that the aforestated statements denotes an "abuse of discretion" which is more than an error in judgment; it implies that the lower court's decision was unreasonable,i.e., not supported by a sound reasoning process, or that it was arbitrary or unconscionable." The Petitioner asserts that the Trial Court was more worried about

OBJECTIONS-continued:OBJECTIONS TO R & R ON GROUND ONE:

getting the trial started than the Petitioner's conflicts with his defense counsel as evidenced by the Trial Transcript, supra. SEE: **Smith v. Lockhart**, 923 F.2d 1314(8th Cir.1991), which held: The trial court violated defendant's Sixth Amendment rights by refusing to appoint new counsel, when defendant presented sufficient cause for substitution of counsel.,, and also, SEE: **Bland v. California Dept. of Corrections**, 20 F.3d 1469(9th Cir.1994); and SEE: **State v. Prater**, 71 App3d 78, 593 NE2d 44(Franklin 1990); and SEE: **State v. Pruitt**, 18 App.3d 50, 480 NE2d 499,(Cuyahoga 1984); also, SEE: **State v. Bronaugh**, 3 App3d 307, 445 NE2d 262(Hamilton 1982).

The Petitioner asserts that the Trial Court judge construed the Petitioner's conflicts with defense counsel as a request for a continuance and denied the request, being an abuse of discretion, to the Petitioner's prejudice and that the First District Court of Appeals' judgment on this issue was based on an unreasonable determination of the facts in light of the evidence presented in the state court proceedings given the fact that no defendant would want to proceed to Trial on the charge of Murder with an attorney who had lied and misled him and who wanted to be discharged from the case. This claim is also debatable among jurists of reason which would require the granting of a certificate of appealability and an evidentiary hearing to ascertain and develop the facts as presented and argued in the Petitioner's Petition for Writ of Habeas Corpus, and the granting of federal habeas corpus relief.

OBJECTIONS TO R & R ON GROUND TWO:

The Petitioner presents and argues that it would not be an unreasonable request for a continuance when the trial jury had not

OBJECTIONS-continued:OBJECTIONS TO R & R ON GROUND TWO:

yet been "voir dire", nor the conflict between the Defendant and his counsel had been resolved, nor was the Defendant prepared for trial, and when Defense counsel had requested to withdraw from representing the defendant; all of these grounds would warrant the granting of a continuance of the trial. The Petitioner argues that by the failure of the Trial Court to grant a continuance, the Petitioner and his defense counsel were forced to proceed to Trial during this heated argument between them concerning defense counsel's "misinformation" related to the Petitioner by said counsel and the request for withdrawal by defense counsel pending before the Court; this "chaotic" state-of-affairs between the Petitioner and defense counsel, alone, mandated a continuance of the Trial to be granted by the Trial Court, since this action interfered with the Petitioner's Constitutional right to counsel protected by the Sixth and Fourteenth Amendments to the United States Constitution and Article I, Section 10 of the Ohio Constitution.

The Petitioner asserts and argues that the Trial Court abused its' discretion in denying a request for a continuance in the case sub judice being an unreasonable determination of the facts in light of the evidence presented in the state court proceedings which warrants the granting of habeas corpus relief. The Petitioner further asserts that this issue also could be found debatable by jurors of reason mandating the issuance of a certificate of appealability and an evidentiary hearing to develop and ascertain the facts of this issue as presented in the Petitioner's Petition for Writ of Habeas Corpus.

OBJECTIONS-continued:OBJECTIONS TO R & R ON GROUND THREE:

The Petitioner argues that the pretrial identification of the Petitioner by Ms. Thomas, in the unduly suggestive photo array, resulted in the misidentification of the Petitioner as the assailant of the victim and with the additional "coaching" by the victims' cousin, FBI-agent Rozier, affirmed the decision of Ms. Thomas that the Petitioner was the perpetrator of this crime. The Petitioner asserts that the most important link-in-the-chain is missing; the state courts did not provide this photo array to this Court as part of the record of the case so "how" can a valid determination of this issue be made? The Petitioner is challenging the reliability of the identification due to the impermissibly suggestive "photo array" which has yet to be seen by this Court and the Petitioner requests that this Court "order" the state to produce this photo array before making an adjudication on this claim, otherwise, would be a denial of "due process of law" in violation of the 5th and 14th Amendments to the United States Constitution. *SEE Objection R&R Ground SEVEN page 10 Attachment "D" pages 300-307*

The Petitioner additionally asserts that an "evidentiary hearing" should be held to factually determine the improper influence exerted upon Ms. Thomas in this photo array procedure, by either relatives of the victim, or state or federal actors.

The Petitioner argues that the state courts made an unreasonable determination of the facts in light of the evidence in their judgment and that this claim can be found debatable among jurists of reason requiring the issuance of a certificate of appealability.

OBJECTIONS TO R & R ON GROUND FOUR:

The Petitioner asserts that his criminal case on appeal in state appellate courts is **distinguishable** to both state and federal caselaw authorities as cited by the Magistrate Judge sub judice

OBJECTIONS-continued:OBJECTIONS TO R & R ON GROUND FOUR:

given the fact that the Petitioner was "goaded into motioning for a mistrial because of prosecutorial misconduct but did not obtain a mistrial" (emphasis added); there was no mistrial and the Petitioner had to proceed with Trial before the "contaminated jury and was convicted". The Petitioner asserts and argues that the caselaw cited against this issue by both the Magistrate Judge and in the Ohio First District Court of Appeals' Opinion are not on legal point due to the fact that the Petitioner did not obtain a mistrial but was "goaded" into motioning for one and that the Petitioner's double-jeopardy protection should be acknowledged. (emphasis added). SEE: Oregon v. Kennedy, 456 US 667, 102 S.Ct. 2083, 72 L.Ed2d 416 (1982), ID at 676 also. *Boyle v. Miller* 20173d 711, 717 (6th Cir 2000)

The prosecutor in the state trial had denigrated defense counsel, made comments concerning the Petitioner not having an "alibi" , which implicated the Petitioner's Fifth Amendment rights to "not testify or remain silent". SEE ATTACHMENT *AI* pages 5 thru 10 1st Appellate District Court

The State of Ohio has misapplied federal and state caselaw to deny the Petitioner his Constitutional rights to "double-jeopardy protections" under the Fifth and Fourteenth Amendments to the United States Constitution, which warrants the granting of federal habeas corpus relief and also this issue can be found debatable among jurists of reason which requires the issuance of a certificate of appealability. *Griffin v. California* (1965), 380 U.S. 609, 85 S.Ct. 1229

OBJECTIONS TO R & R ON GROUND FIVE:

The Petitioner presents that his appellate counsel assigned and argued this issue of the Petitioner's conviction is against the manifest weight of the evidence, citing an Ohio Supreme Court

OBJECTIONS-continued:OBJECTIONS TO R & R ON GROUND FIVE:

case which cited and argued the United States Supreme Court's holding in: **Tibbs v. Florida**, (1982), 457 U.S. 31, 45, 102 S.Ct. 2211, 2220, citing, **Jackson v. Virginia**, (1979), 443 U.S. 307, 99 S.Ct. 2781, SEE: **State v. Tompkins**, 678 NE2d 541 (Ohio 1997), Id at 546-547: [11] When a court of appeals reverses a judgment of a trial court on the basis that the verdict is against the weight of the evidence, the appellate court sits as a "'thirteenth juror'" and disagrees with the factfinder's resolution of the conflicting testimony, **Tibbs**, 457 U.S. at 42, and see also, **State v. Martin**, (1983), 20 Ohio App3d 172, 175, 485 NE2d 717, 720-721.

The Petitioner asserts that his criminal conviction sub judice, is totally a result of circumstantial evidence; the state in no-way, shape-or-form, proved that the Petitioner fired the fatal shots which killed the victim. The State of Ohio's conviction of the Petitioner in this criminal case is against the manifest weight of the evidence and this claim can be found debatable among jurists of reason which requires the issuance of a certificate of appealability.

OBJECTIONS TO R & R ON GROUND SIX:

The Petitioner presents and argues that the Magistrate Judges' interpretation of this claim that the Ohio Court of Appeals deprived him of due process of law and equal protection of law is erroneous in the sense that the Petitioner is arguing that the state of Ohio appellate court will not honor the "mailbox rule" for state of Ohio prisoners but the federal appellate court will allow this rule to benefit federal prisoners which has caused persons which are similarly situated to be treated unequally in



OBJECTIONS--continued:

OBJECTIONS TO R & R ON GROUND SIX:

violation of both the Ohio and United States Constitutions, to the Petitioner's prejudice.

OBJECTIONS TO R & R ON GROUND SEVEN:

The Petitioner asserts and argues that the Trial Court violated his 4th Amendment rights under the United States Constitution by allowing testimony of state witnesses who had violated his 4th Amendment rights by an "illegal search" into his storage bin.

The Magistrate Judge misstated the record in the R&R concerning the Petitioner's 4th Amendment claim in Ground Seven when he stated that no pre-trial Motion to Suppress nor the Transcript demonstrates that the Petitioner "objected" to the evidence at Trial. (Doc. 18 at 8), Doc. 19, Ex. 39 Tr. 466), see, as follows: (A) the Petitioner states that the Trial Court ordered a Side-bar Conference concerning the relevancy of the testimony of FBI-agent Rozier which was offered into evidence by the Prosecutor, as an expert-witness as follows: (Attachment "B", Tr. pages <sup>447</sup>448, <sup>447</sup>449-Ex. 39, Tr. <sup>447</sup>448, <sup>447</sup>449):

Prosecutor: He will be testifying that when he came upon the situation, that he was--basically, his training and experience as a police officer, he was frightened enough to pull his firearm when he saw what was happening between Spikner and the defendant. He's a trained--

The Court: What's the relevancy?

Prosecutor: There's a dispute here about whether or not the defendant had a gun. This witness will testify that Spikner told him that he had a gun. He withdrew his weapon when they came on the scene because of his fear, based on his training. That gives relevance to his actions.

Defense Attorney: Spikner never testified to that.

The Court: Spikner never said he saw a gun. You don't object?

Defense Counsel: I do object.



OBJECTIONS-continued:

Prosecutor: He's going to testify--

The Court: No. Are you trying to impeach your own witness.

Prosecutor: No.

The Court: Then I'm not allowing it.

The Petitioner states that a warrantless search carries the same protection under the 4th Amendment; if done without exigent circumstances and/or consent, the search is invalid. **Franks v. Delaware**, 438 U.S. 154, 98 S.Ct. 267, 57 L.Ed.2d 667, mandates a 2-part test: (1) Whether defendant has proven by a preponderance of the evidence the affidavit contains deliberately or recklessly false statements, (2) whether affidavit, without the false statements provides the requisite for probable cause to be sustained. **State v. Charles**, 138 F.3d 257(6th Cir. 1998).

The Petitioner states that this 4th Amendment violation is revealed in more detail on cross-examination by defense counsel as follows in: Attachment "C", Tr. pages 462-470 (Ex. 39, 462-470), (Cross-examination of State witness FBI-agent Rozier);

Defense counsel: Tr. 463, 464, 465:

Q. Now, when you went with Mr. Spikner to this garage, how did you know that that was Ed Smith's garage?

A. Mr. Spikner told me it was his.

Q. He told you that it was Ed Smith's garage?

A. He told me that where he stored the tools, yes, sir.

Q. Where was your warrant to go inside?

Prosecutor: Objection.

The Court: Overruled.

A. I had no warrant.

Q. You had no authority to go inside, correct

Prosecutor: Objection.

The Court: Overruled.

A. I did not have a warrant, no, sir.

Q. As a matter of fact, the police chief you talked to was the chief of Lincoln Heights?

A. Yes.

Q. He had no authority to police the streets of the city of Cincinnati, did he?

Prosecutor: Objection.

The Court: Sustained.

OBJECTIONS-continued:

OBJECTIONS TO R & R ON GROUND SEVEN:

Q. Did you ever ask him if you were permitted to go into the city of Cincinnati?

Prosecutor: Objection.

The Court: Overruled. You may answer.

A. No, sir, I did not.

Q. Now what could have happened is that you could have endangered a private citizen by going into property that is not authorized to go into, for which you had no warrant, correct?

Prosecutor: Objection.

The Court: Overruled.

Prosecutor: Can we approach?

The Court: Yes.

The Petitioner asserts that the Prosecutor cannot "cry foul" when his own witness(FBI-agent Rozier) reveals on Cross-examination that there is a 4th Amendment violation as well as a Brady violation in withholding statements that determined whether or not a warrantless search is valid. This 4th Amendment violation is ruled upon in the Trial Court Opinion(Tr.pages 467,468, Attachment "C", Ex 39,467,468), when this question of endangering Mr.Spikner was read back to FBI-agent Rozier and his response is: "THAT IS CORRECT", and the remaining testimony on Cross-examination is prejudicial, SEE: "ATTACHMENT "C",Tr.pages 468,469,470,Ex 39, 468,469,470). In fact, the testimony of State's witness, FBI-agent Rozier is in violation of the 4th Amendment along with the "coached" state witness, Michelle Thomas, who claims to identify the Petitioner as the man running from the scene which was given to the jury. SEE: Attachment "D", Tr.pages 300-307,incl., but in fact,was told prior to seeing the photo array, by Rozier,that they suspected that Ed Smith committed the crime. Additionally, there was only "ONE" man in the photo array with a full beard, mixed black and gray, and over 40 years old, being the Petitioner, SEE: Attachment "D",supra, page 304.

The Petitioner states that his 4th Amendment rights were also violated and he was prejudiced before the jury by admission of the testimony concerning the relevancy-of-the-evidence testimony given

OBJECTIONS-continued:OBJECTIONS TO R & R ON GROUND SEVEN:

by FBI-agent Rozier concerning the issue of whether the Petitioner had a "gun", so that Rozier could justify a warrantless, non-consensual search due to exigent circumstances; but as pointed out by the Trial Court, Mr. Spikner did not say that the Petitioner had a gun, so that prevented FBI-agent Rozier from proving that this search of the Petitioner's storage bin (building) was a legal entry due to exigent circumstances, i.e., that the Petitioner had a gun. The Court noted that there was no "consent" to this entry making this search and testimony in violation of the 4th and 5th Amendments to the United States Constitution. The cumulative effect of all the lies and perjured testimony of the State witnesses, including Michelle Thomas, Rozier, James, and Spikner, prejudiced the trial jury against the Petitioner, and FBI-agent Rozier, being presented as the most experienced law enforcement officer by the State, was the most damaging testimony and in violation of the 4th Amendment to the United States Constitution. SEE: Attachment "C", <sup>843, 467,</sup> page 468, Ex 39, Tr. page <sup>467, 843</sup> 468.

This testimony portrayed to the jury that the Petitioner had a gun and looked wild and dangerous, and this language of having a gun is needed in the Officer's oath for a warrant or exigent circumstances to exist for a warrantless search. <sup>U.S. v. Paul, 808 F.2d 645, 647-48 7th Cir. 1986</sup>

The 6th Circuit in numerous caselaw state that this Circuit will not tolerate unannounced, forced entries absent exigent circumstances or consent as well as the 4th Amendment to the United States Constitution. <sup>U.S. v. Gaitan-Acevedo, 148 F.3d 577, 585 n.3 (6th Cir.)</sup>

The Petitioner asserts that this testimony was "fruit of the poisonous tree" which violated his Constitutional rights under the 4th Amendment to the United States Constitution and that this same testimony was used by the Magistrate Judge on Page 32 of the R&R in making this R&R to which the Petitioner wholeheartedly objects.

OBJECTIONS-continued:OBJECTIONS TO R & R ON GROUND SEVEN:

The Petitioner presents and argues that the 6th Circuit in: *U.S.v.Ivy*, 165 F.3d 397(6th Cir.1998), *Id* at 404, held: We therefore find that the district court committed clear error when it held that Ivy's consent was voluntarily given and allowed into evidence the fruits of this unlawful search. "Although there is always a temptation in cases of this nature...to let the end justify the means", *U.S. v.Mesa*, 62 F.3d. 159,163(6th Cir.1995), we must suppress the evidence collected from this unlawful search for several critical reasons. First, this Court must remain vigilant in its role as a guardian of the Constitution and its' protections. We are bound to defend the liberties of even the most despised members of society, for it is in their cases that our freedoms are most at risk. Justice Jackson summed it up well: Fourth Amendment freedoms...are not second-class rights but belong in the catalog of indispensable freedoms. Among deprivations of rights, none is so effective in cowing a population, crushing the spirit of the individual and putting terror in every heart. Uncontrolled search and seizures is one of the first and most effective weapons in the arsenal of every arbitrary government... *Bringar v. United States*, 338 U.S.160,180-181, 69 S.Ct.1302(1949) (Jackson,J.dissenting). The guarantees of the Fourth Amendment do not expire merely because an individual is suspected of a crime; indeed, it is in such a situation that the protections against illegal public search and seizure becomes most meaningful. Id at 403: Ivy, citing *U.S. v. Crowder*, 62 F.3d 782(6th Cir.1995), The Sixth Circuit... holding that " the defendant must show more than s subjective belief of coercion, but also some objectively improper action on the part of the police." *Id*. The Petitioner has proven this point easily. FBI-agent Rozier had no authority to enter the Petitioner's storage bin nor to present testimony of this warrantless and illegal entry.

OBJECTIONS-continued:OBJECTIONS TO R & R ON GROUND SEVEN:

The Petitioner further objects to the R&R, on Page 27, where the Magistrate Judge states that the "Petitioner's seventh, eighth, and ninth claims for relief...as this Court finds that each is barred from review herein by reason of procedural default/waiver. The Petitioner asserts and argues that Claim Six which the Magistrate Judge did not find barred was submitted to the Ohio Supreme Court in the same brief of which claims seven, eight, and nine were submitted so, this finding is both arbitrary and inconsistent since the Petitioner has presented as a "claimed appeal of right" under Ohio Supreme Court Rule II, Section 1(A)(2) each of these claims to the states' highest court of review and to the Ohio First District Court of Appeals, SEE: Attachment "E", Notice of Appeal to Ohio Supreme Court and Brief Index listing these claims as "Propositions of Law". The Petitioner argues that this Court's holding in: *Rust v. Zent*, 17 F.3d 155, 160 (6th Cir. 1994) and in: *Clemmons v. Sowders*, 34 F.3d 352, 354, states that a Petitioner has to give the state's highest courts of review one full opportunity to rule on your claims, and the Petitioner has fully complied in this respect and objects to the R&R on a finding of procedural default/waiver. The Petitioner further asserts that this claims can be found debatable by jurists of reason which requires the issuance of a certificate of appealability and that the state courts made an unreasonable determination of the facts in light of the evidence which warrants federal habeas corpus relief and that an evidentiary hearing should be held to develop the facts of this claim.

OBJECTIONS TO R & R ON GROUND EIGHT:

The Petitioner states that the Trial Court abused it's discretion and denied the appellant/petitioner a fair trial by denying his Motion for a New Trial and this claim was also raised before

RILEY V. GRAY  
674721522(6<sup>th</sup> Cir.)

OBJECTIONS-continued:OBJECTIONS TO R & R ON GROUND EIGHT:

the Ohio First District Court of Appeals in an Application for Reopening pursuant to Ohio App.Rule 26(B) of which the Petitioner showed "good cause" for the Application arriving untimely to the Clerk's office for filing. The Petitioner argued this claim to the aforestated Court and to the Ohio Supreme Court in the brief attached as Attachment "D", *supra*, and has not defaulted nor waived this Constitutional claim for federal habeas corpus review. SEE: *Rust, supra, and Clemmons, supra*. This issue was also recognized by the First District Court of Appeals in it's opinion as not being raised by appellate counsel, thus, that Court recognized that appellate counsel should have raised this claim. SEE: Attachment "E", page \_\_\_ of their Opinion.

The Petitioner reiterates that he was denied a fair trial by the Trial Court's abuse of discretion and plain error pursuant to Ohio Criminal Rule 52(B), and states that this unreasonable determination by the state court of the facts in light of the evidence warrants federal habeas corpus relief and that jurists of reason could find this claim debatable which requires the issuance of a certificate of appealability.

OBJECTIONS TO R & R ON GROUND NINE:

The Petitioner states that the Trial Court committed reversible error by it's erroneous jury instruction on the mens rea element of purpose/intent by it's definition which established a conclusive presumption but not allowing for this presumption to be rebutted by evidence and this shifted the "burden of proof of intent" on the appellant/petitioner instead of to the State of Ohio, being both prejudicial and reversible error, plain error pursuant to Ohio Criminal Rule 52(B); thus, denying the Petitioner a fair trial. The Petitioner asserts that this issue was also raised in the Ohio First

OBJECTIONS-continued:OBJECTIONS TO R & R ON GROUND NINE:

District Court of Appeals and to the Ohio Supreme Court and is not procedurally defaulted nor waived, SEE: Rust, supra, and Clemmons, supra. The Petitioner argued this claim as a Constitutional claim in both of the state's highest courts of appellate review and gave them both one full and fair opportunity to adjudicate this claim. The Petitioner asserts that the state courts made an unreasonable determination of the facts in light of the evidence which warrants federal habeas corpus relief and that this claim can be found debatable among jurists of reason which requires the issuance of a certificate of appealability.

OBJECTIONS TO R & R ON GROUND TEN:

The Petitioner has stated facts and proven to this Court that his appellate counsel performed both deficiently and ineffectively in failing to raise the claims in Grounds Six, Seven, Eight, and Nine, and has shown and proven both cause and prejudice to this Court.

The Magistrate Judge is in error in his finding that the prejudicial prong of the Strickland test has not been met because the Petitioner has not prevailed on his claims in the state courts because each of the aforestated claims can be found debatable among jurists of reason and an adjudication in the Petitioner's favor could be rendered, thus, proving this prejudice prong. Thus, the Magistrate Judge is only considering a "historical view" of this case by the same Court's which do not want their judgment overturned; and this is a one-sided and biased perspective. The Petitioner argues that this claim requires a "de novo" review, SEE: Hence v. Smith, 37 FS2d 970, and is an unreasonable determination of the facts in light of the evidence which warrants federal habeas corpus relief.

Respectfully submitted,

*Edward Smith, pro se*

Edward Smith, petitioner, pro se  
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C E R T I F I C A T E   O F   S E R V I C E

I, Edward Smith, petitioner, pro se, Inmate No. 346-408, do hereby certify that a copy of this Objections was given to prison officials for mailing in the U.S. Mail, postage prepaid to: Thelma Thomas Price, Ass't Atty. General, Corr. Litigation Section, 140 East Town St., 14th Floor, Columbus, Ohio, 43215-6001, + U.S. District Court #324 Clerk office on this 4<sup>th</sup> day of May, 2004. 100 East Fifth St. CINTI, OH, 45202

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